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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/728,984	12/08/2003	David Seidler	9007.0003	1104

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EXAMINER

DOAN, ROBYN KIEU

ART UNIT	PAPER NUMBER
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3732

MAIL DATE	DELIVERY MODE
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08/01/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/728,984	Applicant(s) SEIDLER ET AL.	
	Examiner Robyn Doan	Art Unit 3732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-18, 20-30 and 32-44 is/are rejected.
- 7) ☒ Claim(s) 7, 19 and 31 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/9/2007</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 8-11, 25-28, 32-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over De Laforcade (U.S. Pat. # 6,857,432, IDS cited reference).

With regard to claims 1-4, 8-11, 25-28, 32-35, De Laforcade discloses a cosmetic compact (figs. 1, 3) comprising a base (104) defining at least one compartment having an opening (112), a cover (102); the cover and the base associated with each other in a generally hinge-like manner (fig. 3) between an open (fig. 3) and a closed positions (fig. 1), the cover and the base being secured together by a magnetic assembly (col. 3, lines 26-3), the cover moving with respect to the base up to an angular extent (fig. 3). De Laforcade also shows a mirror (120) on the inner surface of the cover, a first (106) and a second cosmetic product (108), a cosmetic applicator (119) disposed in the compartment. De Laforcade fails to show a first and second magnets coupled with the base and cover and the angular extent being less than 180 degrees and greater than or

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equal to 100 degrees and the first and second magnets comprising a first and a second pairs of magnets. It would have been obvious to one having an ordinary skill in the art at the time the invention was made to construct the angular extent of less than 180 degrees and greater than or equal to about 100 degrees and the first and second magnets comprising a first and a second pairs of magnets since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. In re Aller, 105 USPQ 233.

Claims 37, 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jeong (IDS cited WO 90/15215) in view of Benson (U.S. Pat. # 2,302,661).

With regard to claim 37, Jeong discloses a device (fig. 2) comprising a base (30) defining at least one compartment having an opening (at 30f), the base further having at least one base recess (39, fig. 3), a cover (20) movable with respect to the base, in a generally hinge-like manner (fig. 2), a cover opening limiter (90, page 4, lines 14-16) extending from the cover, the cover opening limiter comprising an end portion (page, 4, line 12) configured to be engaged with the base recess when the cover is in the open position, wherein the cover opening limiter being configured to limit an angular extent of generally hinge-like movement of the cover (page 4, lines 10-16). Joeng fails to shows the cover opening limiter moves into the base recess when the cover is moved from the open position to the closed position, however, Benson discloses a hinge (figs. 3 and 4) having an end portion (50) that moves from an open position to a closed

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position. It would have been obvious to one having an ordinary skill in the art at the time the invention was made to construct the hinge as taught by Benson in place of the hinge shown by Jeong, as these two hinges are equivalent and would result an equivalent effect. In regard to claim 41, Jeong also shows the cover having a cover recess (29, fig. 3) and an opposite end portion of the cover opening limiter comprising an axle (fig. 7b, applicant is noted that to call one end of the cover limiter 90 as shown in fig. 7b as an axle is merely a terminology since the end portion of cover limiter 90 functions the same as the claimed invention).

Claims 5, 6, 12-18, 20-24, 29, 30, 37-40, 42-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over De Laforcade in view of Jeong.

With regard to claims 5, 6, 12-18, 20-24, 29, 30, 37-44, De Laforcade discloses the essential claimed invention as discussed above except for a cover opening limiter having a first end portion associated with the cover and a second end portion associated with the base, wherein the second end including a protrusion. Jeong discloses a device (fig. 2) comprising a base (30), a cover (20) movable with respect to the base, in a generally hinge-like manner (fig. 2), a cover opening limiter (90, page 4, lines 14-16) extending from the cover, the cover opening limiter comprising a first end portion associated with the cover and a second end portion associated with the base (page 4, lines 12, 13), wherein the second end including a protrusion (see fig. 7A). it would have been obvious to one having an ordinary skill in the art at the time the invention was made to

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employ the cover opening limiter as taught by Jeong into the device of De Laforcade in order to limit the opening of the cover.

Claims 7, 19, 31 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Applicant's submission of an information disclosure statement under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p) on 7/9/07 prompted the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 609.04(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robyn Doan whose telephone number is (571) 272-4711. The examiner can normally be reached on Mon-Fri 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cris Rodriguez can be reached on (571) 272-4964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robyn Doan/
Primary Examiner
Art Unit 3732

rkd
July 23, 2007